

SMT JUSTICE T. RAJANI

CRIMINAL PETITION Nos.11175 and 11176 of 2011

COMMON ORDER:

CRLP.No.11175 of 2011 is filed for quash of the proceedings in Cr.No.94 of 2011, against the petitioners, who are A1 to A8, on the file of the Station House Officer, Kodangal Police Station, Mahabubnagar and CRLP.No.11176 of 2011 is filed for quash of the proceedings in Cr.No.93 of 2011, against the petitioners, who are A1 to A4, A6 and A9, on the file of the Station House Officer, Kodangal Police Station, Mahabubnagar. The offences alleged in both the cases are under Sections 379, 420, 426, 447 and 502 of the Indian Penal Code and Sections 3((1)(v), 3(1)(v), 3(1)viii and 3(1)(ix) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. The grounds, on which the petitions are filed, are almost the same. Hence, they are taken up for a common consideration and disposal.

3. Heard the counsel for the petitioners and the learned Public Prosecutor appearing for the third respondent. None appears for respondents 1 and 2 in spite of service of notice.

4. The counsel for the petitioners submits that the lands were allotted to the petitioners in the year 1975 by way of 38-E certificate and that they have been in possession since then. The allegations in the complaint are that the second respondent purchased the land under the sale deed from a GPA holder of one Somnath Reddy. The counsel submits that a civil suit was filed by the petitioners and

the same is pending in O.S.No.44 of 2010 on the file of the Junior Civil Judge, Kodangal. The counsel draws the attention of the Court to the complaint, which is filed by the complainant, wherein in the first page, the date of offence is mentioned as 09.08.2010. But the complaint is filed on 02.08.2011, which is after one year from the date of the alleged offence. The counsel submits that only in order to work out the remedies of the second respondent, this false complaint is filed. The counsel relies on a decision of the Supreme Court in *GORIGE PENTAI AH v. STATE OF ANDHRA PRADESH*¹ wherein the Supreme court held as para 6 as under:

“6. In the instant case, the allegation of respondent No.3 in the entire complaint is that on 27.5.2004, the appellant abused them with the name of their caste. According to the basic ingredients of [Section 3\(1\)\(x\)](#) of the Act, the complainant ought to have alleged that the accused-appellant was not a member of the Scheduled Caste or a Scheduled Tribe and he (respondent No. 3) was intentionally insulted or intimidated by the accused with intent to humiliate in a place within public view. In the entire complaint, nowhere it is mentioned that the accused-appellant was not a member of the Scheduled Caste or a Scheduled Tribe and he intentionally insulted or intimidated with intent to humiliate respondent No. 3 in a place within public view. When the basic ingredients of the offence are missing in the complaint, then permitting such a complaint to continue and to compel the appellant to face the rigmarole of the criminal trial would be totally unjustified leading to abuse of process of law.”

The counsel contends that the complainant had no where in the complaint mentioned that the accused are not members of the Scheduled Caste or a Scheduled Tribe.

¹ (2008) 12 SCC 531

5. Hence, in view of the above, this Court opines that continuation of further proceedings against the petitioners would only be an abuse of process of law.

In the light of the above, the criminal petitions are allowed and the further proceedings in Cr.No.94 of 2011, against the petitioners, who are A1 to A8 and in Cr.No.93 of 2011, against the petitioners, who are A1 to A4, A6 and A9, on the file of the Station House Officer, Kodangal Police Station, Mahabubnagar, are hereby quashed. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

August 23, 2018
DSK



T. RAJANI, J